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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
GENEVA

COUNCIL

Forty-Second Ordinary Session
Geneva, October 30, 2008

REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS
ON THE LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS

Document prepared by the Office of the Union

1. According to the practice introduced on the occasion of the twenty-sixth ordinary session of the Council, the reports from the representatives of members and observers on the situation in the legislative, administrative and technical fields of plant variety protection and related areas are requested to be submitted in writing, in advance, to increase the ability of the Council to carry out its tasks effectively.

2. Written reports were requested by the Office of the Union in the invitation circular relating to this session and a model format was proposed. The following reports were submitted (in alphabetical order of the names in French):

Members: Annexes I to XVIII: South Africa, Germany, Argentina, Australia, Belgium, China, European Community, Croatia, Hungary, Mexico, Norway, New Zealand, Poland, Republic of Moldova, Czech Republic, Slovenia, Switzerland and Ukraine.

Observers: Annex XIX: Serbia.

3. Reports received after September 30, 2008, will be included as an addendum to this document, which will be published after the Council session.

[Annexes follow]

ANNEX I

SOUTH AFRICA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

- As part of an overall departmental legislative review process, the Plant Breeders' Rights Act has been reviewed and the draft amendment bill is in the process of being developed.
- The annual increase of Plant Breeders' Rights fees on April 1, 2008 was published in Government Gazette Vol. 513 of March 13, 2008.

1.2 Case law

In the matter of the appeal against the termination of Plant Breeders' Rights Registration of Piquante, a Capsicum variety, the appeal board set aside the decision of the Registrar to cancel the PBR.

1.3 Extension of protection to further genera and species

Request for approval to have a further 30 genera declared in terms of the Plants Breeders Rights Act, 1976 (Act No. 15 of 1976) is currently being considered by the Minister of Agriculture.

2. Cooperation in examination

Nothing to report.

3. Situation in the administrative field

By August 31, 2008 the total number of valid plant breeders' rights was 2205.

	Agricultural Crops	Vegetable Crops	Ornamental Crops	Fruit Crops	Total
Valid PBR	711	249	888	357	2205

4. Situation in the technical field (see under 3)

Nothing to report.

5. Activities for the promotion of plant variety protection

- Publications: all matters related to Plant Breeders' Rights are published in the quarterly South African Plant Variety Journal which appears on the web-site of the Department of Agriculture (<http://www.nda.agric.za>)
- A SADC PBR Training Workshop was held at Kopanong Hotel, Benoni, from July 9 to 11, 2008. A total of 11 SADC member states were represented. The event was co-financed and facilitated by the USPTO and UPOV.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

National Environment Laws Amendment Bill published in July 2008:

The following section is inserted in the National Environmental Management: Biodiversity Act, 2004, after section 81:

“Notification requirements

“81A. (1) No person may, without first notifying the Minister, engage in the discovery phase of bioprospecting involving any indigenous biological resources.

“(2) A notice referred to in subsection (1) must be in such form and must contain such other particulars as may be prescribed.

“(3) A person involved in the discovery phase of bioprospecting must sign a prescribed commitment to comply with the requirements at the commercialization phase of bioprospecting.”

[Annex II follows]

ANNEX II

GERMANY

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Various provisions of the Plant Variety Protection Act (civil claims) were amended by the Act on the Improvement of Enforcement of Intellectual Property Rights.

1.2 Nothing to report.

1.3 Nothing to report.

2. Cooperation in examination

A new examination agreement was concluded with the Republic of Belarus.

3. Situation in the administrative field

Nothing to report.

4. Situation in the technical field

Nothing to report.

5. Activities for the promotion of plant variety protection

During the reporting period, the Federal Plant Varieties Office received a delegation from member States, namely the Netherlands, France, Japan and China.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex III follows]

ANNEX III

ARGENTINA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

- 1.1 There have been no changes in this area.
- 1.2 There have been no changes in this area.
- 1.3 Case law: available as an Annex for consultation on request.

2. Cooperation in examination

The Republic of Argentina continues to use the UPOV cooperation in examination system with regard to varieties of ornamental species. Furthermore, under the Agreement concluded between the National Seeds Institute (INASE) of Argentina and the Community Plant Variety Office (CPVO), the examination report has been requested from that Office for two applications for the artichoke species.

3. Situation in the administrative field

The intellectual property area has been formalized within the Directorate of Legal Affairs of INASE.

4. Situation in the technical field

There have been no changes in this area. The Varieties Registry Directorate of INASE is the technical department of INASE responsible for conducting DUS tests. A professional technician joined the Directorate and is responsible for processing applications for fruit, forest and ornamental species. To date, the Varieties Registry Directorate has a total of seven technicians responsible for examination, three administrative staff members and three agronomy students holding scholarships who, in addition to receiving training from experts, take part in various technical activities of the Varieties Registry Directorate.

5. Activities for the promotion of plant variety protection:

INASE took part in various activities on the subject of intellectual property in plant varieties and related aspects. Its technical and legal staff gave presentations at the following dissemination and/or training events:

- Workshop for sugar cane producers and breeders: INTA – EEA Obispo Colombes – INASE. San Miguel de Tucumán, September 2007
- Third National Native Flora Days – INASE and Plant Genetic Resources. Córdoba, October 16 to 18, 2007

- Mercosur Conference on intellectual property (organized and coordinated by the Inter-American Institute for Cooperation on Agriculture (IICA) and the Ministry of Agriculture, Livestock, Fisheries and Food (SAGPyA)). The UPOV Convention: 1978 and 1991 Acts. Buenos Aires, December 6, 2007
- Improvement of stone fruit species – varieties registration and breeders' rights. Update day organized by INASE and INTA. San Pedro, Buenos Aires, May 8, 2008
- Seminar-workshop entitled “Genetic resources for food security: their use and conservation, legislation in force and social heritage”. Autonomous City of Buenos Aires, Argentina, June 24, 2008
- Training Program on Intellectual Property in the Implementation of Trade Agreements. Module on New Varieties of Plants. Quito, Ecuador, June 25 to 27, 2008
- “Seminar-workshop on intellectual property law, a challenge for agribusiness to incorporate technological innovations”. Asunción, Paraguay, August 18-19, 2008
- First National Congress on Native Flora, Santiago de Chile, August 20-24, 2008
- “Symposium on Native Orchids of Argentina”, held in the *Palacio Raggio* (Autonomous City of Buenos Aires), August 23, 2008, under the auspices of the Federation of Orchid Breeders of the Republic of Argentina: Protection of genetic resources, native flora, its protection and IP systems. List of native species.
- Second Congress on Agribiotechnology, Intellectual Property and Public Policies, Córdoba Province, Argentina, August 27-29, 2008
- Day devoted to “Plant Varieties and Intellectual Property” organized in the city of Balcarce, Buenos Aires Province, September 12, 2008
- “Intellectual property and registration of plant varieties: the case of ornamental species”. Master's degree in flower growing INTA – UNLZ. Castelar, Buenos Aires, September 12, 2008

Activities with breeders:

- A series of field visits were organized and carried out in the Collection of Varieties of Soya Bean, coordinated by INASE during the 2007/2008 agricultural season, including theoretical and practical aspects, with plant breeders of this species, in order to make observations and strengthen the technical standards for the gathering of data concerning growing, and to detect problems in the characterization and description of varieties.
- On July 11, 2008, a day was held on the use of molecular markers in the identification and protection of plant varieties, during which the technical departments of the Molecular Markers Laboratory and the Varieties Registry exchanged experiences on the subject and established work strategies directly with breeders of soya bean species.

II. OTHER DEVELOPMENTS OF INTEREST TO UPOV

- INASE continued its work aimed at facilitating access to information by breeders by making the forms for the description of varieties available on its website (*www.inase.gov.ar*).
- The National Catalogue of Varieties is updated periodically in order to communicate to breeders and producers the list of varieties registered and for which a plant breeder's right has been granted.
- The INASE website includes a technical publications page for the announcement of the technical work published by the staff of INASE for the purposes of dissemination and knowledge of the subjects dealt with by the Institute, including those related to intellectual property in plant varieties.

[Annex IV follows]

ANNEX IV

AUSTRALIA

The format of this report follows that specified in previous years and briefly records information for the financial year ending 30 June 2008.

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 No PBR legislation was enacted or came into force in 2007/2008.

1.2 No PBR specific case law has been finalized in 2007/2008.

2. Cooperation with examination

No new cooperation agreements on examination have been entered into in 2007/08.

3.&4. Situation in the administrative field

In March 2008 IP Australia signed a cooperation agreement with Vietnam to exchange information and share experiences to assist in capacity building. Matters of interest include implementation of the UPOV Convention provisions through national legislation; and development of national procedures and skills (relating for example, to policy issues, examination and testing regimes).

During 2007-2008 the Australian PBR office approved an application for accreditation as a Centralised Test Centre (CTC) for DUS testing of *Vaccinium*.

This application is in addition to the existing 34 separate CTCs for the following 53 plant types: Potato, Sugar Cane, Canola, Wheat, Oats, Clematis, *Mandevilla*, *Diascia*, *Argyranthemum*, *Pelargonium*, Perennial Ryegrass, Tall Fescue, Tall Wheat Grass, White Clover, Persian Clover, *Bracteantha*, *Aglaonema*, *New Guinea Impatiens*, *Bougainvillea*, *Verbena*, *Agapanthus*, *Camellia*, *Lavandula*, *Osmanthus*, *Ceratopetalum*, *Rosa*, *Euphorbia*, *Linonium*, *Raphiolepis*, *Eriostemon*, *Lonicera*, *Jasminum*, *Angelonia*, *Cuphea*, *Cynodon*, *Zoysia*, *Petunia*, *Calibrachoa*, *Hordeum*, *Leptospermum*, *Rhododendron*, *Osteospermum*, *Antirrhinum*, *Dahlia*, *Anubias*, *Ananas*, *Dianella*, *Plectranthus*, *Zingiber*, *Zantedeschia*, *Prunus*, *Mangifera* and *Kalenchoe*.

IP Australia also maintains and updates weekly a Homepage (www.ipaustralia.gov.au/pbr/index.shtml) that includes PBR information, downloadable forms; and a searchable database including information on current applications, variety descriptions, images and grants.

Year	Applications Received	Applications Completed	Applications Pending
Ending 30/6/08	372	263	
Total 1988 to 2007*	5828	4596	1232

*= as at 30 June 2007

During 2006, the Advisory Council on Intellectual Property (ACIP) launched a review into the enforcement of PBR. The review is wide ranging and will consider possible strategies to assist Australian PBR holders to effectively enforce valid rights. The review also includes a consideration of whether there may be benefits from extending the jurisdiction of the Federal Magistrates Court to include PBR matters. ACIP has conducted a number of consultations, developed an issues paper and an options paper. It intends to release its final report and recommendations in 2009. Further information is available from <http://www.acip.gov.au/reviews.html#pbr>.

5. Activities for the promotion of plant variety protection

IP Australia has been involved in the following promotional activities:

1. *'Brief introduction to PBR in Australia'*, Presentation to Delegation from Republic of Korea, Canberra, 14 December 2007.
2. *'Selected elements of the 1991 UPOV Convention (i) Harvested material; (ii) Farmer's Privilege'*, National Workshop on the Protection of New Varieties of Plants under the UPOV Convention, Hanoi Socialist Republic of Viet Nam, 18 February 2008.
3. *'PBR in Australia'*, National Workshop on the Protection of New Varieties of Plants under the UPOV Convention, Hanoi Socialist Republic of Viet Nam, 18 February 2008.
4. *'Introduction to plant variety protection under the UPOV Convention'*, Singapore, 21 February 2008.
5. *'Benefits of the extension of the coverage of plant variety protection'*, Singapore, 21 February 2008.
6. *'Brief overview of PBR in Australia'*, Singapore, 21 February 2008.
7. *'PBR in Australia'*, Presentation to Delegation from China, Canberra, 14 March 2008.
8. *'PBR and EPR – how do they work together, The Australian Experience'*. DEFRA, Cambridge UK, April 2008.
9. *'What you really should know about PBR'*, Managing your intellectual property symposium, Horticulture Australia Limited, Perth, 1 May 2008.
10. *'PBR and End Point Royalties - Current trends'*, DPI&F Intellectual Property Forum, Brisbane, 20 June 2008.

[Annex V follows]

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

Adaptation to the 1991 Act of the Convention

This project is in progress. The preliminary draft law has been submitted for consultation to the professional sectors concerned. The next stage is to forward it to the Cabinet, to the Council of Ministers, and to seek the opinion of the Council of State.

Access to plant variety protection under the 1991 Act is nevertheless still possible on Belgian territory, through the Community Plant Variety Office, in accordance with the European regulations in force on the subject.

2. Cooperation in examination

No change.

3. Situation in the administrative field

Changes in the administrative structure

No change.

Volume of activity - status as at August 31, 2008

Since the entry into force of the legislation on the protection of plant varieties in Belgium, and up to August 31, 2008, 2,244 applications for protection have been registered and 1,800 certificates issued, of which 210 are still in force.

[Annex VI follows]

ANNEX VI

CHINA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

The Implementing Rules for the Regulations of the People's Republic of China on the Protection of New Varieties of Plants (Agriculture Part) were amended and adopted at the Twelfth Executive Meeting of the Ministry of Agriculture held on 25 August 2007. The amended Implementing Rules for the Regulations of the People's Republic of China on the Protection of New Varieties of Plants (Agriculture Part) were thereby promulgated for implementation, and it has entered into force from 1 January 2008. The Implementing Rules for the Regulations of the People's Republic of China on the Protection of New Varieties of Plants (Agriculture Part) promulgated by the Ministry of Agriculture on 16 June 1999 was repealed at the same time.

Adaptation to the 1991 Act of the Convention

China has not yet acceded to the 1991 Act of the Convention.

Other amendments, including in respect of fees

The Chinese Government has issued a notification to reduce the official fees for PBR applications.

From September 1, 2007, China decreased its fees. The application fee decreased from 1,800 RMB to 1,000 RMB. The examination fee decreased from 4,600 RMB to 2,500 RMB.

The annual fee was 1,500 RMB per year from the first year to the third year, with a 30% increase every three years. However, it has been decreased to 1,000 RMB per year from the first year to the sixth year and then remains at 1,500 RMB every year.

1.2 Case law

On 25 December 2006, the Supreme Court issued the Provision (Interpretations) on Several Issues on Application of Law for Trial of Dispute Cases of the rights in new varieties of plants.

1.3 Extension of protection to further genera and species (made or planned)

On 21 April 2008, Order 14 by the Ministry of Agriculture published the seventh batch protection list and brought the total number of protected agricultural plants up to 74 plant genera and species. The order entered into force as of 1 June, 2008. The list includes 12 plant genera and species: *Hevea brasiliensis* (Willd. ex A. de Juss.) Muell. Arg., *Camellia* L. Section *Thea* (L.) Dyer, *Sesamum indicum* L., *Manihot esculenta* Crantz, *Saccharum* L., *Vigna angularis* (Willd.) Ohwi et Ohashi, *Allium sativum* L., *Brassica campestris* ssp.

Chinensis, *Anthurium* Schott, *Guzmania* Ruiz. & Pav., *Dimocarpus longan* Lour., *Panax ginseng* C. A. Mey.

2. Cooperation in examination

China is active in the East Asia Plant Variety Protection Forum.

China and the Netherlands are carrying out the “Technical implementation of DUS testing for plant variety registration and protection” project.

From 30 June to 3 July 2008, China and the Republic of Korea held the 2nd session of the workshop on the plant variety protection in the Republic of Korea.

3. Situation in the administrative field

Changes in the administrative structure

During the period from 1 January to 31 July 2008, 404 applications for plant breeders’ rights were received and 329 were granted by Ministry of Agriculture. By the end of July, 1,746 plant breeders’ rights were in force.

Changes in office procedures and systems

On June 8, 2007, the PVP office of the Ministry of Agriculture issued working system of PVP office (a quality management system).

4. Situation in the technical field

No change.

5. Activities for the promotion of plant variety protection

Meetings, seminars, etc.:

- From 27 February to 1 March 2008, the Ministry of Agriculture held a working meeting on DUS Testing of New Varieties of Agricultural Plants in Nanjing, Jiangsu Province.
- In 2008, the Ministry of Agriculture develops administrative enforcement pilot works for Agricultural Plant Variety Protection in the third group of 22 pilot provinces.
- Held several Workshops on DUS Testing scene in the plant growing season (e.g. apple, peach and grape).
- China participated in the sessions of UPOV, e.g. the Council, the CAJ, the CC, the TC in Geneva and all the TWP meetings.

Publications

- All matters related to Plant Breeders' Rights are published in the Agricultural Plant Variety Protection Gazette once every two months.
- Translated document TGP/7 "Development of Test Guidelines" into Chinese Version and will translate document TG/1/3 "General Introduction to the Examination of Distinctness, Uniformity and Stability and the Development of Harmonized Descriptions of new Varieties of Plants" into Chinese Version.

Technical assistance

None.

II. RELATED FIELDS OF ACTIVITIES, IF OF INTEREST TO UPOV

None.

[Annex VII follows]

ANNEX VII

EUROPEAN COMMUNITY

Period: October 2007 - October 2008
Report prepared by the European Commission
in collaboration with the Community Plant Variety Office (CPVO)

I. PLANT VARIETY PROTECTION

1. Legislation

1.1 – *General:* On 1 January 2007, Bulgaria and Romania joined the European Union. From that date, the European Union comprises 27 Member States, in which the Community Plant Variety Rights legislation applies.

– *Law:* Through the amendment of Article 12 of Council Regulation 2100/94¹ applicants from all nations are now entitled to apply for a Community variety right. Accordingly, the Community Plant Variety Office (CPVO) may not reject an application based on the country of origin of the applicant. Nevertheless non-EU applicants still need to have a procedural representative established in the EU. The amendment came into force on January 31, 2008. Before the amendment, nationals of States other than Member States of the EU or UPOV could only apply for Community plant variety protection in so far as the Commission, after obtaining the opinion of the Administrative Council, so decided.

– *Implementing regulations:* The Proceedings Regulation (Commission Regulation (EC) No 1239/95), and the Fees Regulation (Commission Regulation (EC) No 1238/95), have been amended.^{2 3} The amendments will allow the Office to introduce a number of e-services including the possibility for clients to file applications in electronic format online and to make it possible for clients to make payments online. Moreover, the Fees Regulation was amended to the effect that the annual fees will be set at €300 (presently €200). The fees for the technical examinations will vary depending on the species in question. The amendments will enter into force on 1 January 2009.

1.2 Case law

Court of First Instance

Case T-95/06, 31 January 2008, *Federación de Cooperativas Agrarias de la Comunidad Valenciana v Community Plant Variety Office (CPVO)*

¹ Council Regulation (EC) No 15/2008, of 20 December 2007 amending Regulation (EC) No 2100/94 as regards the entitlement to file an application for a Community plant variety right, O.J. No L8 11.01.2008.

² Commission Regulation (EC) No 355/2008, of 21 April 2008 amending Regulation (EC) No 1239/95 as regards the use of electronic means of communication in proceedings before the Community Plant Variety Office, O.J. No L 110 22.4.2008.

³ Commission Regulation (EC) No 572/2008, of 19 June 2008 amending Regulation (EC) No 1238/95 as regards the level of the annual fee and the fees relating to technical examination, payable to the Community Plant Variety Office, and the manner of payment, O.J. No L 161 20.6.2008.

In February 2005, the *Federación de Cooperativas Agrarias de la Comunidad Valenciana* (FECOAV), a Federation of cooperatives in the agricultural sector, filed a notice of appeal against the CPVO decision to grant protection to the mandarin variety “Nadorcott”. In November 2005, the Board of Appeal dismissed this appeal as inadmissible because FECOAV was not entitled to appeal. The Board held that FECOAV was not the addressee of the contested decision and was not directly and individually concerned about the decision. FECOAV contested this decision and appealed against it before the Court of First Instance in March 2006. In support of its action, the FECOAV relied, essentially, on three arguments. Firstly, FECAOV argued that the Board of Appeal should have notified it about the problem of *locus standi* (the right to appeal) and that a second oral hearing should have taken place. Secondly, it argued that the Board of Appeal was wrong when it concluded that that FECAOV was not directly and individually concerned by the contested decision and, thirdly, the Board of Appeal had failed to comply with the obligation to state reasons. The appeal was rejected and the Court of First Instance ordered FECOAV to pay the costs.

2. Cooperation in examination

2.1 Conclusion of new agreements

The Administrative Council of the CPVO has entrusted the Japanese examination office for the technical examination of *Nymphaea* and South Africa for the technical examination for *Leucospermum*. The agreement was signed in December 2007.

2.2 Amendment of existing agreements

The CPVO is currently revising and updating its contracts with third countries outside the European Union. The countries concerned are: Australia, New Zealand and Israel.

In relation to the ‘take over of examination results’ by third countries from the CPVO, we can report that, to date, 26 countries, outside the European Union, use examination reports from the CPVO.

2.3 Memorandum of Understanding with Japan

In 2006, the Japanese Ministry of Agriculture, Forestry and Fisheries (MAFF) and the CPVO started cooperation in respect of technical examinations. In the framework of this cooperation Japanese experts have visited the CPVO and its examination offices in the Netherlands, Germany, the United Kingdom and Denmark. Members of the CPVO visited the Japanese examination office working on behalf of the MAFF. These technical visits aimed at a harmonization of the conduct of technical examinations of several ornamental species. As a result, the MAFF decided at the end of 2007 to base its decision on applications for plant variety rights in 18 cases on technical examinations carried out by European examination offices. The Office also plans to base its decision on DUS examinations carried out in Japan for *Petunia* and *Calibrachoa* varieties in the coming years.

3. Situation in the administrative field

3.1 Changes in the Administrative structure

By Council Decision of the European Union of December 17, 2007, Mr. Paul A.C.E. Van Der Kooij and Mr. Timothy Millett have been appointed respectively Chairperson and Alternate to the Chairperson of the Board of Appeal of the Community Plant Variety Office for a period of five years.

3.2 Statistics

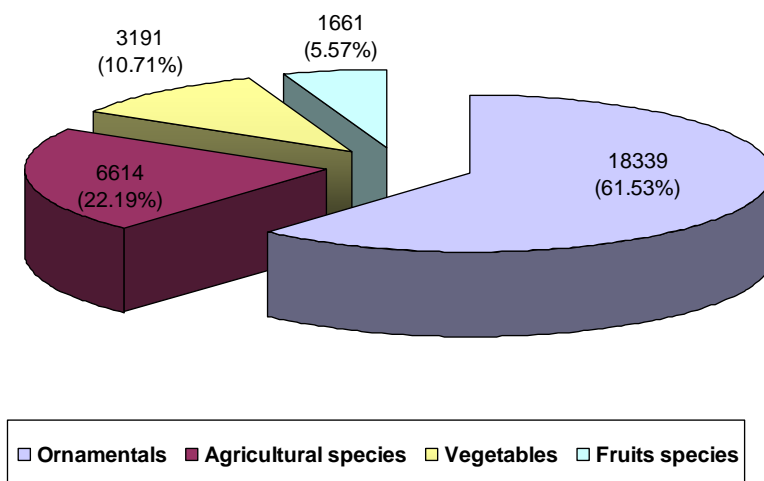
Applications for Community Plant Variety Protection

In 2007 the CPVO received 2,977 applications for Community plant variety protection, which is 241 more than the previous year (2,735 applications in 2006) which represents an increase of 8.80%. Until August 31, 2008, 1,853 applications were received, representing a few less than the same period of the previous year (1,916 in 2007).

In 2007, as compared to the previous year, there was an increase of 12.44% of applications in the agricultural sector. All other crop sectors saw an increase between 10 and 11%.

The graph below represents shares of the main crop sectors in number of applications since the beginning of the activities of this Office.

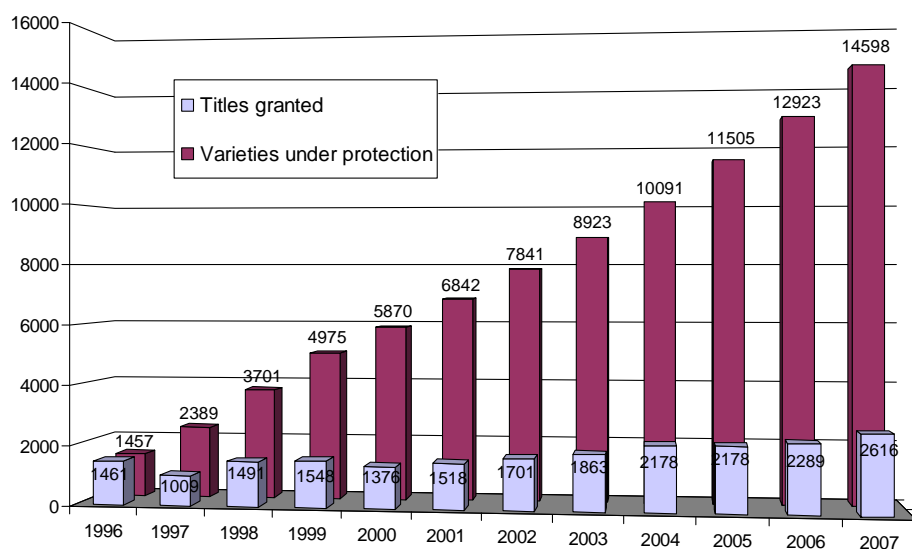
Graph 1: Shares in application numbers per crop sector



Grants of protection

In 2007, the CPVO granted more than 2,600 titles for Community protection. By the end of 2007, there were 14,598 Community plant variety rights in force. The following table shows the number of titles granted for each year from 1996 to 2007 and illustrates the continuous increase of varieties under protection within the Community system. By August 31, 2008, this Office had granted 1,837 rights which is equal to a decrease of -2.7% as compared to the first eight months of 2007. By August 31, 2008, 15,646 rights were in force.

Graph 2: Community plant variety rights granted and rights in force (1996-2007)



Technical examinations

In 2007, the CPVO initiated a total of 1,963 technical examinations which were carried out by the different examination offices working on behalf of the Office.

4. Situation in the technical fields

Information concerning the functioning of the Community Plant Variety Protection

4.1 Relation with examination offices

Tenth annual meeting with examination offices

The 2007 meeting of the CPVO with its examination offices was attended by representatives of 24 EU Member States, Turkey and Norway, the European Commission, the UPOV office, as well as the breeders' organizations ESA and CIOPORA.

The main subjects of discussion were:

- Information on the involvement of external experts in DUS testing
- National guidelines to be provided to the CPVO
- Simplified standard protocol
- Electronic data exchange
- Procedure for the use of additional characteristic
- Reporting non-observed characteristics and unforeseen stages of expression
- Some aspects as regards the procedure to implement UPOV technical guidelines
- UPOV TWP - presentation of comments to UPOV technical guidelines and other issues by the CPVO on behalf of Examination Offices in case of non-attendance
- Proposal for a modified procedure in case of technical verifications

- Keeping of plant material beyond the end of the technical examination – revision of the procedure
- Keeping of samples following seizure of plant material by customs authorities
- Data to be stored by examination offices.

4.2 Preparation of CPVO protocols

Expert meetings for agricultural crops, fruits and ornamentals

In 2007, experts from the Member States' examination offices were invited to participate in elaborating technical protocols for DUS testing. The following meetings were held:

- 4.2.1 agricultural experts: draft protocols were discussed for five species (Wheat, Barley, *Triticale*, Oilseed rape, *Lolium*, *Festuca*)
- 4.2.2 fruit experts: draft protocols were discussed for four species (Apricot, Blueberry, *Prunus* rootstocks, *Lonicera caerulea*)
- 4.2.3 ornamental experts: draft protocols were discussed for eleven species (*Anthurium*, *Dendrobium*, *Impatiens walleriana*, *Phalaenopsis*, *Osteospermum*, *Verbena*, *Clematis*, *Diascia*, *Begonia Elatior Hybrids*, *Gypsophila*, *Sutera* & *Jamesbrittenia*, *Rhododendron simsii*)
- 4.2.4 vegetable experts: draft protocols were discussed for seven species (carrot, celeriac, celery, Chinese cabbage, cucumber and gherkin, eggplant, spinach)

The administrative Council has approved the following technical protocols:

Agricultural species: Wheat (revision)

Ornamental species: *Anthurium* Schott, *Freesia* Eckl. Ex Klatt, *Gladiolus* L., *Impatiens walleriana* Hook. F., *Lilium* L., *Diascia* Link & Otto, *Gypsophila* L., *Rhododendron simsii* Planch., *Sutera* Roth and *Jamesbrittenia* O. Kuntze, *Begonia x hiemalis* Fotsch, *Clematis* L., *Dendrobium* Sw., *Osteospermum* L., *Phalaenopsis* Blume and *x Doritaenopsis hort.*, *Verbena* L.

Vegetable species: *Apium graveolens* L. var. *dulce*; *Apium graveolens* L. var. *rapaceum*; *Brassica pekinensis*; *Cucumis sativus*; *Daucus carota*; *Solanum melongena*; *Spinacea oleracea*.

Fruit species: *Lonicera caerulea*; *Prunus armeniaca*; *Prunus* L.; *Vaccinium corymbosum*.

4.3 Further development of the centralized database for variety denominations

The CPVO released in July 2005 a web site to test proposals for variety denominations for similarity. The database contains more than 500,000 denominations from National listing and plant variety rights registers of the EU Member States and UPOV members, including the list of varieties compiled by the OECD and following its schemes. PLANTSCOPE, a commercial register of varieties traded in The Netherlands and managed by the VKC was included at the end of 2007 and is regularly updated since then. The database was initially accessible only to

National authorities of European Union Member States, the European Commission and UPOV. Since the beginning of 2007, applicants and procedural representatives of the Community plant variety right system and applicants of National listing and National plant variety rights in the European Union also have access to this web site. The database relies on the UPOV code system and the Office had to complement it in 2008 with a 'CPVO code' system for species which have not (yet) been the subject of applications for plant variety rights in the UPOV world. Besides these milestones, the Office continues constantly to update and to improve the quality of data in the database.

4.4 Strategic discussion

The CPVO has, on request of its Administrative Council, taken the initiative to launch a "strategic" debate as regards the modalities of DUS testing in the future. The discussions, which were concluded in 2007, focused on the concentration of DUS testing in agricultural and vegetable sectors, the reorganization of DUS testing in the ornamental and fruit sector and the strengthening the role of breeders in DUS testing.

One of the conclusions of the Strategic Discussion is that "quality requirements in DUS testing" should be a leading principle in the process of entrustment of Examination Offices. To take this decision forward it has been decided to create in the CPVO an "independent autonomous unit" to prepare the detailed quality requirements and to carry out the necessary audits. Another important outcome from the Strategic discussion has been the acceptance of the principle "one key, several doors principle" which implies that a DUS test report produced by an examination office that meets, as far as the species in question is concerned, these quality requirements will be accepted by the competent Authorities of the EU Member States for listing and PVR.

5. Activities for the Promotion of Plant Variety Protection

Program with Croatia, the former Yugoslav Republic of Macedonia and Turkey

In 2008 the CPVO is running a Commission financed programme in order to familiarize the EU candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey with the Community Plant Variety Rights system. The programme covers activities such as workshops, seminars, DUS training sessions at examination offices and it involves all stakeholders (officials, breeders, growers, lawyers etc.). The programme is planned to be finalized by the end of 2008.

Participation in international fairs:

- HORTIFAIR in Amsterdam (NL): October 9 to 12, 2007;
- IPM in Essen (DE): January 24 to 27, 2008;
- SALON DU VEGETAL in Angers (FR): February 20 to 22, 2008.

The CPVO has organized in collaboration respectively with Naktuinbouw and NIAB the following "Open Days":

- Open day for orchid breeders, Wageningen (NL): February 18, 2008;
- Open day for perennial plants and chrysanthemums, Cambridge (UK): July 24, 2008.

II. RELATED FIELDS OF ACTIVITIES, IF OF INTEREST TO UPOV

1. R & D

Following the rules established by the CPVO's Administrative Council in 2002 for supporting financially R & D projects of interest for the Community plant variety right system, several projects received financial support from the CPVO in 2007:

1.1 Management of winter oilseed rape reference collections

The NIAB project in co-operation with GEVES, DIAS and the Bundessortenamt tries to establish the use of DNA markers as a tool for an efficient selection of suitable reference varieties. The project started in 2005; the final results were presented in February 2008.

1.2 Development and evaluation of molecular markers linked to disease resistance genes for tomato DUS testing (option 1a)

The final report of this two-year project expressed a very positive outcome, with molecular markers showing a very close correlation to physiological tests for all the asterisked disease resistance characteristics included in the study. The three project partners have carried out a ring trial with a set of reference and candidate tomato varieties during 2008 to look in particular at the reliability of the biomolecular tests in relation to the uniformity criteria, and a possible future implementation of such tests for DUS testing in this crop. The results and conclusions of the project were presented in further detail at the forty-second session of the Technical Working Party for Vegetables (TWV/42) and were also presented at the eleventh session of the Working Group on Biochemical and Molecular Techniques, and DNA-Profiling in Particular (BMT/11) in 2008.

1.3 Potatoes

The project started in April 2006 and was concluded by mid-2008. The partners involved are Germany, Netherlands, Poland and United Kingdom. The project has created a database including marker profiles of potato varieties, key morphological characteristics and a photo library with light sprout pictures. The aim is to rapidly identify plant material of a vegetatively propagated crop where reference material has to be submitted every year and to ease the management of the reference collection.

1.4 Management of peach tree reference collections

This is a three-year project, which started in the beginning of 2008, resulting from a collaborative venture between GEVES and INRA (France), OEVV, IVIA and CITA (Spain), CRO-FRU (Italy) and the Central Agricultural Office (Hungary), all these being the CPVO's examination offices for *Prunus persica*.

The aims of the project are to create and manage a peach tree database via all the examination offices working in this species for the CPVO, in the framework of the delivery of plant breeders' rights at the national and EU levels.

2. Catalogues (seed sector)

The European Union is in the process of an evaluation of its legislation on the marketing of seed and propagating material. This evaluation is a first step in the review process of this legislation. This review frames in the “better regulation” initiative of the Commission and aims at a simplification of the legislation and the reduction of administrative burden, without jeopardizing the achievements of this legislation in terms of quality assurance and of free movement within the Community. The final report of this evaluation, which is due for late 2008, should serve as a major source of information for the further steps in the review process.

3. Genetic resources

- The 2nd meeting of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture (Rome, October 29 to November 2, 2007) allowed good progress on a number of issues relating to the implementation of the Treaty. With regard to farmers’ rights, Resolution 2/2007 underlines that the responsibility for realizing Farmers’ Rights, as they relate to plant genetic resources for food and agriculture, rests with national Governments. The issue has been placed on the agenda of GB-3 (planned for 1-5 June 2009 in Tunis).
- Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties was adopted on 20 June 2008. The specific conditions laid down in the Directive should favor the developments regarding the conservation *in situ* and the sustainable use of plant genetic resources. Provisions are made for the monitoring of its implementation.

4. GMOs

In 2008, new GM varieties of maize have been inscribed in the Common Catalogue of varieties of the European Union and new GMOs have been authorized under European Community legislation, which can be imported and used in the EU.

The Member States of the European Union are still working on measures on co-existence of genetically modified crops with conventional and organic farming crops.

The Commission has taken or revised emergency measures against imports of rice products from some third Countries.

[Annex VIII follows]

ANNEX VIII

CROATIA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 The Law of Alteration and Amendments on the Plant Variety Protection Law was adopted by the Parliament of the Republic of Croatia on May 30, 2008, and published in the Official Gazette No. 67/08, on June 9, 2008.

1.2 An extension of protection to further genera and species is planned by the end of 2008.

2. Cooperation in examination

- An administrative agreement for cooperation in the testing of Distinctness, Uniformity and Stability with Slovenia was signed in January 2007. *The Institute for Seed and Seedling, Osijek – Croatia provide DUS testing for Slovenia for the following genera and species: spring barley, winter barley, spring wheat, winter wheat and maize, no changes.*
- The bilateral agreement of cooperation with Hungary was signed in 2002, no changes.
- The bilateral agreement concerning the exchange of DUS reports with Bundssortenamt, Germany was signed in 2002, no changes.
- The purchase of DUS reports and descriptions is effectuated with the CPVO, France, the Netherlands, Germany, Italy, Hungary, Spain, the Czech Republic and Slovakia.
- The Institute for Seed and Seedling, Osijek –Croatia provides DUS testing for Romania for winter wheat, but the bilateral agreement of cooperation has not been signed.

3. Situation in the administrative field

3.1 No breeder's right was granted.

3.2. According to the new Law of Alteration and Amendments on the Plant Variety Law there are changes in activities. Now, activities related to plant variety protection are under the responsibility of the Institute for Seed and Seedlings and the Ministry of Agriculture, Fisheries and Rural Development.

The Institute for Seed and Seedlings will manage:

- The Register of Applications for breeder's right;
- DUS testing;
- Publishing of the Official Gazette.

The Ministry of Agriculture, Fisheries and Rural Development will manage:

- The Register of Granted of breeder's right;
- The Register of Transferred breeder's right;
- The Register of Contractual Licenses of breeder's right;
- The Register of Designated Representatives.

The Head of Department for Plant Variety Protection and Registration from the Institute for Seed and Seedlings, Ružica Ore Jurić, is the contact person for the UPOV Secretariat.

4. Situation in the technical field

In 2008, the Institute for Seed and Seedlings started with DUS testing of the varieties of Soya Bean.

5. Activities for the Promotion of Plant Variety Protection

5.1 With reference to the Commission Decision C/2005/4762 the multi-beneficiary Program on participation of Croatia in CPVO has been prolonged in 2008:

The objective of the program is:

- to inform competent bodies and stakeholders in Croatia about technical, administrative and procedural aspect of Community system as well as the legal impact of the extension of the CPVR system such as the rights in force prior accession and those granted after accession etc.
- The program also aims to prepare the competent national authorities to participate in the CPVR system and to give assistance to bring national legislation in line with EU legislation requested.

Activities of the program:

Component 20: Legal subjects

- Legal advice in the adaptation of the national Plant Variety Right law to the Acquis Communautaire
- Training of experts on legal subjects of the CPVR
- Participation on the Regional Seminar on ENFORCEMENT OF PLANT VARIETY RIGHT, Sofia, Bulgaria 30 September 2008.

Component 21: Technical Training

- Application of electrophoresis tools for DUS testing in cereals
- Study visit to Hungary for cereals and soybean DUS tests
- Training in the administrative handling of applications and cost calculation

Component 22: Introduction to administrative and procedural steps of the CPVR system

- Participation in the annual technical meeting
- Participation in different crop expert meetings

Component 23: Participation in a PVR course

Component 24: Familiarization of plant breeders with the Community system

5.2 Meetings, Seminars, etc.

- “*The Protection of New Varieties of Plants in Croatia and EU – CPVO system*”, Presentation, International Symposium on Agriculture, 18-22 February, 2008
- “*Presentation of the draft ECO Regional Scheme for Plant Variety Release and Plant Variety Protection*”, Third ECO Regional Workshop on Harmonization of Seed Regulations, 14-16 July 2008, Istanbul, Turkey
- Participated in the Biosafety Workshop organized under the TCP/CRO/3102(D), 8-13 September 2008, Osijek, Croatia
- Publication: Farm Saved Seed System, Professional review, December 2007

5.3 Visits

- In January 2008, a representative of Plant Variety Registration and Protection Department of Republic of Serbia visited the Institute of Seed and Seedlings, Osijek, Croatia.
- In March 2008, a representative of the Ministry of Agriculture, Forestry and Water Economy of the former Yugoslav Republic of Macedonia visited the Institute of Seed and Seedlings, Osijek, Croatia.
- In September 2008, a representative of the Central Agricultural Office of Hungary visited the Institute of Seed and Seedlings, Osijek, Croatia.
- TAIX study visit on system of the plant variety protection (TASK 8740) to DEFRA, United Kingdom, from September 18 to 20, 2008.

II. RELATED FIELDS OF ACTIVITIES OF INTEREST TO UPOV

The Law of Alteration and Amendments on the Act on Seed, Plant Material and Registration of Agricultural Varieties was adopted by the Parliament of the Republic of Croatia on March 20, 2008, and published in Official Gazette No. 35/08, on March 28, 2008.

New ordinances:

- on the National Variety List (OG 45/08);
- on the Registration of Agricultural Varieties.

[Annex IX follows]

HUNGARY

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

Adoption to the 1991 Act of the Convention

Hungary became party to the 1991 Act of the UPOV Convention on 1 January 2003. (Previously, Hungary had been party to the 1978 Act of UPOV Convention from 1983.)

Hungary has been a Member State of the European Union from 1 May 2004. Since the accession, Community plant variety rights under Council Regulation (EC) No 2100/94 of 27 July 1994 are extended to the territory of Hungary; and the provisions of the said regulation are directly applicable in Hungary.

Act XXXIII of 1995 on the Protection of Inventions by Patents (the Patent Act) also provides for the protection of plant varieties (Part V, Articles 105 to 115/C). It was substantially modified in 2002 by the provisions of Act XXXIX of 2002; the modifications on plant variety protection entered into force on 1 January 2003.

The provisions of the Patent Act are in full conformity with the International Convention for the Protection of New Varieties of Plants as revised in 1991 and Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights. The national system ensures *sui generis* protection for the plant varieties, whereas before it was part of the patent protection. The plant variety protection lasts for 25 years from the date of the grant of a plant variety protection or, in the case of trees and vines, for 30 years from such date.

Since 1 January 2003 there have been no substantive changes in the law on the protection of plant varieties.

Other amendments, including in respect of fees

No amendments.

1.2 Extension of protection to further genera and species (made or planned)

No changes. Pursuant to the rules in force, plant variety protection extends to all plant genera and species.

1.3 Case law

The National Seed Law (Act of 2003: number LII) on State Registration of Plant Varieties and Production and Marketing of Seeds and Vegetative Propagation Materials had amendments. In the new version the name of the Testing Office (previously OMMI) is the Central Agricultural Office (CAO).

87/2007 VII.17 Decision of the Ministry of Agriculture and Rural Development contains the changes of the structure and harmonized lists of the species by European legislation of marketing of propagation materials.

70/2006 (IX. 27.) Decree of Ministry of Agriculture and Rural Development is a modification of Decree 48/2004 (IV.21 on seed production and marketing.

2. Cooperation in examination

According to paragraphs (3) and (4) of Article 114/R of the Patent Act, the results of experimental testing (DUS examination report) carried out by a competent foreign authority may be taken into consideration with the consent of such authority [...]. The costs of experimental testing shall be borne by the applicant. Therefore, the Hungarian Patent Office (HPO) took steps to conclude agreements with national and regional offices on sending reports on DUS technical examination from the relevant Office to the HPO.

In the course of the procedure, the HPO sends an official request for a DUS report to the relevant Office; the request conforms to the UPOV request form. In this request it is indicated that the relevant Office should send the invoice directly to the applicant. The applicant pays the amount of the fee to the relevant Office. After receipt of the fee the relevant Office sends the DUS report to the HPO with the declaration of the relevant Office's consent to the use of the DUS report in the procedure before the HPO.

The Hungarian Patent Office concluded agreements on sending reports on DUS technical examination with the Community Plant Variety Office (CPVO), with the Bundessortenamt (Germany) as well as with the Board for Plant Breeders' Rights of the Ministry of Agriculture, Nature and Food Quality (Netherlands).

The CAO has completed its agreement with Romania and has a new modified agreement with Slovenia developing more widely the number of species completed.

3. Situation in the administrative field

The HPO is authorized to grant protection to plant varieties. In the national system the HPO is responsible for the examination of novelty, denomination and for the registration of plant varieties. The Central Agricultural Office (successor of the National Institute for Agricultural Quality Control from 1 January 2007) is responsible for the morphological examination (DUS-testing).

4. Situation in the technical field

The technical examination is carried out by the Central Agricultural Office. No amendment.

5. Activities for the promotion of plant variety protection

The HPO publishes and distributes leaflets explaining the system of plant variety rights in Hungary and also organizes seminars concerning this topic. The Office has a website on which information can be found on plant variety right issues.

The educational activity of the HPO contributes to the development of Hungarian industrial property culture; the representatives of the HPO deliver lectures on the system of plant variety protection.

The HPO is invited by the breeding institutes to participate in the demonstration of their new varieties; and the HPO is also represented at the sensory judgment of the plant variety.

There are different competition possibilities in order to promote innovative and agricultural research activities in Hungary. One of them invites application for financial help to obtain and maintain plant variety protection in a foreign country. The other one gives assistance to breed new varieties or to develop certain features (i.e.: improved resistance) of the variety.

CAO organized the Thirty-Sixth Session of the Technical Working Party for Agricultural Crops (TWA) in Budapest, from May 28 to June 1, 2007.

Three Hungarian experts finished UPOV Distance Learning course in 2008.

[Annex X follows]

MEXICO

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Process of reforms to the Federal Law on New Varieties of Plants

In 2006 a proposal was made for an initiative to reform the Federal Law on New Varieties of Plants, the legal instrument for the protection of plant breeders' rights in Mexico, in order to make the necessary adaptations to harmonize that Law with the 1991 Act of the UPOV Convention. Work on this initiative has continued to be carried out during 2007 and 2008 jointly with the legislative authorities and the main users of the system for the protection of plant varieties, taking into account the recommendations made by the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Plants (CIOPORA). During 2007 and 2008, the process of gathering additional and relevant comments has continued with a view to obtaining the approval of the Congress of the Union.

1.2 Federal Law on Seed Production, Certification and Trade

Following a broad consultation process launched in 2002 intended to update, improve, harmonize and complement the legislation relating to seeds, and the decision by the highest national legislative authority (Congress of the Union) to incorporate the proposals arising from this consultation, the new Federal Law on Seed Production, Certification and Trade was published on June 15, 2007 in the *Diario Oficial de la Federación* (Official Gazette). This instrument meets the needs of the sector, by harmonizing and complementing the regulatory framework, both at the national and international levels, and its main contributions are that it:

- takes into consideration all types of seed (not only those certified and not only agricultural species or basic crops)
- strengthens the regulation of seed trade (provides certainty for farmer)
- creates the National Seeds System (coordination mechanism)
- establishes the Support and Incentives Fund (financial instrument)
- implements policy on seeds (as a State obligation)
- strengthens and extends the powers of the National Seeds Inspection and Certification Service (SNICS)
- provides catalogues (in accordance with international standards, formalizing the possibility of registering commonly used varieties)
- provides harmonization with other legislation (intellectual property, biosecurity, plant genetic resources) and the international framework
- strengthens and updates technical aspects, regulation and monitoring
- maintains openness in research, production and certification
- establishes Regional or State Seeds Committees (to strengthen local coordination, links and participation)

2. Cooperation in examination

2.1 On April 12, 2008, a new collaboration agreement was signed between the SNICS and the Community Plant Variety Office (CPVO), under which Mexico, on behalf of the CPVO, became an Official Examination Office for the examination of the distinctness, uniformity and stability (DUS testing) of the plant varieties of avocado (*Persea americana* Mill) for which protection of the breeders' rights is requested in the European Community.

2.2 The cooperation agreement with the CPVO remains in force with regard to acceptance by the Mexican authorities of official DUS examination results from that Office.

3. Situation in the administrative field

3.1 Increase in the number of applications for plant breeder titles

During the first half of 2008, twenty-nine breeders filed 105 applications, representing an increase of more than 200 per cent compared to the first six months of 2007; these applications concerned 23 different species, mainly agricultural (50 per cent) and ornamental (26 per cent). By nationality, 48 per cent of these applications were submitted by Americans, 21 per cent by Dutch breeders and the rest by breeders from Mexico, Germany, France, England, Israel, Spain and Australia. The main applicants were Pioneer Hi-Bred International and Rosen Tantau, Mathias Tantau Nachfolger. The total number of applications as at July 31, 2008 was 951, of which 408 have been granted a breeder's title.

3.2 Measures against the piracy of plant varieties.

In November 2003, the National Service for the Inspection and Certification of Seeds (SNICS) carried out its first inspection prompted by the suspected illegal cultivation of a variety of Bugambilia (*Bougainvillea* sp) "SAN FRANCISCO", an innovation made by a small Mexican producer, which resulted in the first fine for that reason. To date, 26 measures have been taken relating to supervision and the application of sanctions in accordance with the Federal Law on New Varieties of Plants, most notably the following:

- i. The majority of inspections carried out (85 per cent) related to varieties of rose.
- ii. The inspection visits resulted in an increase in the conclusion of trade agreements between producers and breeders, which is reflected in the decrease in legal action taken subsequent to intensive inspections.
- iii. A total of 58 per cent of the administrative procedures were resolved by imposing the respective fine. The remaining 42 per cent correspond to inspections carried out more recently and are therefore in the process of being resolved.

4. Situation in the technical field

No relevant comments.

5. Activities for the promotion of plant variety protection

- On April 25, 2007 the Pan-American Conference on Breeders' Rights took place in Cuernavaca, State of Morelos, Mexico, organized by CIOPORA in cooperation with SNICS. A total of 150 people participated actively in the event, with a range of profiles related to the field, including breeders, lawyers specializing in intellectual property, researchers, public servants, entrepreneurs and small producers. The participants came from 16 countries and included 89 Mexicans, and representatives of UPOV were also present.
- During the second quarter of 2007, as part of a preventive strategy, around ten meetings were held involving the participation of producers, breeders and authorities at different levels of government, which resulted in agreements being reached – with the support of the majority of producers – concerning the implementation of the Federal Law on New Varieties of Plants in Mexico as a direct benefit for the production sector, taking into account the need for new and improved plant varieties, an objective that can only be achieved in the short term and efficiently by fostering a culture of respect for plant breeders' rights.
- On January 18, 2008, the “Ninth International Seminar on Cut Flowers” was held in Ixtapan de la Sal, State of Mexico. Around a hundred producers from the region participated in the event and had the opportunity to obtain first-hand information about the experiences in Colombia and Ecuador concerning the benefits gained by the implementation of their respective laws on the protection of plant breeders' rights. On this occasion, the participants asked questions about the procedure and implementation of the Law in Mexico.
- On February 24, 2008, SNICS held its General Assembly which brought together around 200 producers, for whom an exhibition on new varieties of rose was prepared by the main national breeders, with the aim of promoting negotiations within the framework of the Federal Law on New Varieties of Plants.
- On March 13, a working meeting was held with a senior official from the Government of the State of Puebla, in which flower growers from different towns in Puebla participated (Sierra Norte, San Martín, Atlixco). The aim was to tackle the subject of plant breeders' rights and agree on a program of working sessions with a view to examining the problems related to the implementation of the Federal Law on New Varieties of Plants in that State.
- Since 2005, SNICS, in collaboration with the *Colegio de Postgraduados* (College of Postgraduates), the leading institution in Latin America for agricultural research and teaching, has organized an international workshop held every year during the last week of August on the evaluation of the distinctness, uniformity and stability of plant varieties. The participants in this event have included officials from Nicaragua, Guatemala and Venezuela and actors involved in the protection of plant breeders' rights in Mexico. In 2008 a representative from Ecuador participated.

II. OTHER DEVELOPMENTS OF INTEREST TO UPOV

No relevant comments.

[Annex XI follows]

ANNEX XI

NORWAY

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

No changes have been made.

2. Cooperation in examination

Norway received 46 DUS-reports from other member States.

3. Situation in the administrative field

From January 1 to December 31, 2007, 26 applications were received and 48 titles were issued.

Grant of rights by crop kind was as follows:

<i>Begonia</i>	4	<i>Hordeum vulgare</i>	2	<i>Phleum pratense</i>	1
<i>Calibrachoa</i>	2	<i>Lolium perenne</i>	2	<i>Petunia</i>	11
<i>Clematis</i>	3	<i>Malus</i>	1	<i>Rosa</i>	8
<i>Euphorbia pulcherrima</i>	1	<i>Osteospermum</i>	6	<i>Sutera</i>	1
<i>Fragaria ananassa</i>	1	<i>Pelargonium</i>	4	<i>Verbena</i>	1

255 titles were in force as of August 1, 2008.

[Annex XII follows]

ANNEX XII

NEW ZEALAND

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

The Plant Variety Rights Amendment Bill has been drafted and will proceed in due course. The proposed amendments to the current Act are in conformity with the 1991 Act of the Convention. The Plant Variety Rights Act 1987 remains in force, conforming to the 1978 Act of the Convention.

2. Cooperation in examination

Correspondence has been exchanged between New Zealand and the Community Plant Variety Office regarding a proposed testing agreement for certain species.

New Zealand continues to purchase test reports from, and supply to, member States, for certain species on an as requested basis, under the general provisions of the Convention.

3. Situation in the administrative field

During the financial year ended June 30, 2008, 156 applications for plant variety rights were accepted (1 more than the previous year), 121 grants were issued (17 more) and 83 grants were terminated (12 less). At June 30, 2008 there were 1,342 valid grants (38 more).

The integration of the Plant Variety Rights Office into the Intellectual Property Office of New Zealand has progressed in stages over the last few years and is now complete. The Plant Variety Rights Office is now a section of the Intellectual Property Office of New Zealand.

4. Situation in the technical field

Testing for the major agricultural species is now carried out by AssureQuality New Zealand on behalf of the Plant Variety Rights Office.

The testing of fungal endophyte varieties has undergone a major reorganization and testing under the new procedure has recently concluded for the first group of candidate varieties.

5. Activities for the promotion of plant variety protection

- The Plant Variety Rights Office was visited by two staff from the Korea Seed and Variety Service of the Republic of Korea on December 10-11, 2007. During the visit, information was provided concerning the use of websites, electronic files and other information technology utilized in New Zealand.

- On 8 June 2008, a presentation was given on the testing of ornamental varieties in New Zealand to the DUS Testing Workshop for Breeder's of Ornamental Varieties in Wageningen, The Netherlands. The workshop preceded the forty-first session of the Technical Working Party for Ornamentals and Forest Trees (TWO).

[Annex XIII follows]

ANNEX XIII

POLAND

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

The presently binding Act of June 26, 2003, on the Legal Protection of Plant Varieties (POJ No 137/2003, item 1300) was amended by the following Acts which came into force on September 13, 2006 and on June 19, 2007, respectively:

- the Act of June 9, 2006 (POJ No 126/2006, item 877),
- the Act of May 9, 2007 (POJ No 99/2007, item 662).

The law amendments were mainly made in art. 23 with respect to the regulations concerning the farmer's privilege. Moreover, the provisions of the Directive 2004/48/EC on the enforcement of intellectual property rights were implemented. The penal provisions have been sharpened. The last amendments introduced provisions on pursuit of claims under civil law procedure.

The implementing regulations to the Act will soon be issued.

The Polish Plant Variety Protection Law is based on the 1991 Act of the UPOV Convention. Poland acceded to the 1991 Act of the UPOV Convention as the twenty-fourth State, on August 15, 2003.

Since November 1, 2000, all plant genera and species are eligible for PBR protection in Poland.

2. Cooperation in examination

The Research Centre for Cultivar Testing (COBORU) in Słupia Wielka cooperates in the field of DUS examination with different countries.

We have bilateral agreements on DUS testing with the Czech Republic, Hungary and Slovakia.

Unilateral agreements with Latvia, Lithuania, Estonia and Romania are in force. Poland carries out DUS tests for the Latvian, Lithuanian, Estonian and Romanian authorities. These tests are done for different species of agricultural, vegetable, ornamental and fruit plants.

On behalf of the CPVO, COBORU carried out technical examinations, mainly for varieties of ornamental and agricultural species.

As in previous years, COBORU has received requests from another authorities (mainly CPVO, Russia, Latvia and Lithuania) for technical examination results.

Poland actively participated in the work on the elaboration of the CPVO protocols during experts meetings in Angers.

3, 4. Situation in the Administrative and Technical Fields

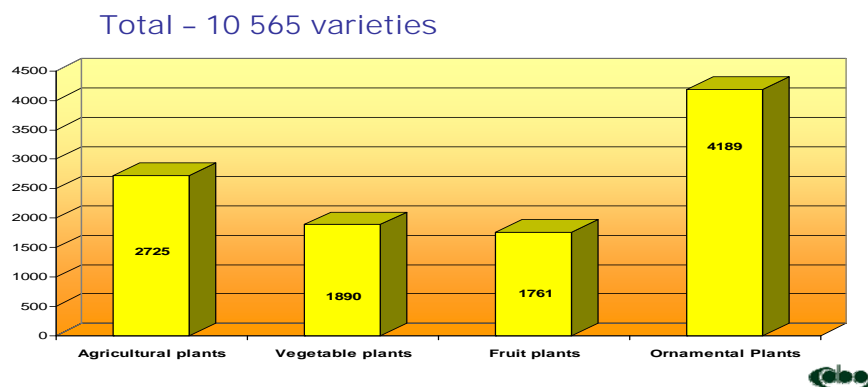
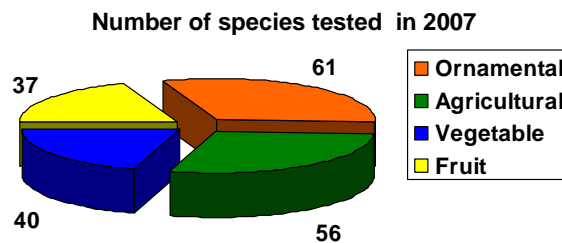
The COBORU variety testing activities in the field of DUS are done in 15 Experimental Stations for Variety Testing. These stations are located all over the country.

In 2007, the COBORU tested 10,565 varieties within 194 plant species in total, which included 9,756 varieties in reference collections and 809 candidate varieties.

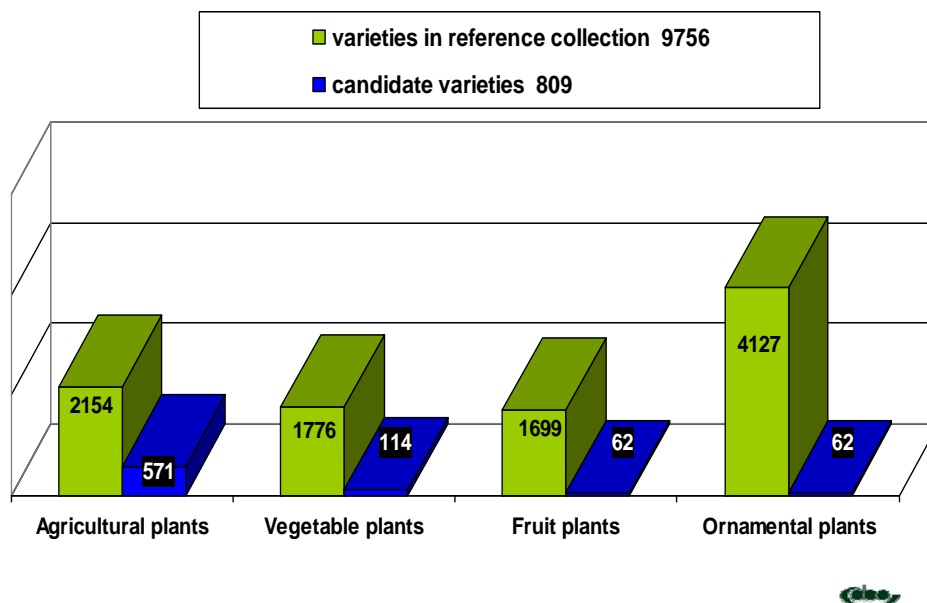
The following two graphs illustrate the number of varieties tested in Poland.

Number of varieties in DUS testing in 2007

Graph 1



Graph 2



In 2007, the COBORU received 110 applications for national PBR protection in total, which is practically identical to the previous year (109 applications).

From January 1 to September 1, 2008, 39 new applications, including 35 domestic and 4 foreign, were submitted for national PBR. This represents a decrease in comparison with the previous reporting period, especially in ornamental and agricultural plant species.

In 2007, the COBORU granted 107 titles for national protection. At the end of 2007, there were 1,519 national PBR titles in force.

In the reporting period (from January 1 to September 1, 2008), 117 titles of PBR protection have been granted. In total, 1,461 varieties are protected in Poland (as of September 1, 2008). Details are provided in the table below.

Table

Crops	Applications for PBR 1.01. – 01.09.2008			Grants of PBR 1.01. – 01.09.2008			Titles having ceased	Titles in force as of 01.09.2008
	domestic	foreign	together	domestic	foreign	together		
Agricultural	22	3	25	47	3	50	26	654
Vegetables	1	-	1	7	9	16	8	303
Ornamentals	5	1	6	24	15	39	136	383
Fruit trees and berry plants	7	-	7	9	3	12	5	120
Miscellaneous	-	-	-	-	-	-	-	1
Total	35	4	39	87	30	117	175	1461

5. Activities for the Promotion of Plant Variety Protection

Poland participates in the sessions of the organs of UPOV e.g. the Council, the Administrative and Legal Committee, the Consultative Committee, the Technical Committee and the Technical Working Parties.

In the reporting period, Polish DUS experts actively participated in the Technical Working Parties: TWF, TWO, TWV and TWA, their preparatory workshops and the Workshop on Document TGP/14 Section 2, Subsection 3 “Color”.

Poland organized the Preparatory Workshop for the forty-second session of the Technical Working Party for Vegetables (TWV), on June 22, 2008 and the forty-second session of the TWV, from June 23 to 27, 2008, which took place in Cracow, Poland. During the visit to the COBORU Experimental Station for Variety Testing in Węgrzce, the participants from 23 States and Organizations had the possibility of familiarizing themselves with the organization of variety assessment in Poland, including DUS testing of vegetables.

Four DUS specialists from COBORU have successfully completed the UPOV Distance Learning Course “Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention”.

Meetings, seminars, etc.

- From September 10 to 14, 2007 seven specialists from the State Inspection for Testing and Protection of Plant Varieties of the Republic of Belarus visited COBORU. The aim of this visit was continuation of training in the organization of the official variety assessment in Poland, with special reference to the DUS and VCU examinations (especially in sugar beet, potato and berry plants).
- The scientific conference entitled “Present tendencies of agricultural law development, including legal aspects of plant varieties protection” was organized in Ustroń jointly by the University of Silesia, Faculty of Law and Administration, Katowice and the Seed Agency, Leszno, from May 16 to 17, 2008. The subject matter of plant variety protection in the Polish and in the Community laws, breeder’s exemption as well as instruments of civil law proceedings in the exclusive right protection was, *inter alia*, presented.
- On June 19, 2008, under the auspices of the Polish Seed Association (PIN) and the European Seed Association (ESA), the workshop “Royalty collection in Poland on FSS Potatoes” was arranged. In total, 23 persons participated in this event which took place on the premises of the potato breeding company PMHZ Strzeżęcín.
- From July 20 to 24, 2008 COBORU organized a meeting for specialists from the Latvian State Plant Protection Service, Ministry of Agriculture, Riga. The subject of the meeting was the national systems of listing and PBR protection in Poland, with special reference to the organization of the DUS testing of ornamental and fruit plants in our country.

- From July 21 to 25, 2008, four specialists from the State Inspection for Testing and Protection of Plant Varieties of the Republic of Belarus visited COBORU to be trained in DUS testing of agricultural and fruit plants.
- On August 28, 2008, during the Domestic Scientific Conference organized by the Research Institute of Pomology and Floriculture in Skierniewice, a lecture on PBR enforcement in pomology sector was presented by the COBORU Director General.

Visits

- The visit of a Ukrainian delegation, composed of eight specialists, from the State Service on Right Protection for Plant Varieties of the Ministry of Agrarian Policy, Kiev, Ukraine and its Experimental Stations took place from September 16 to 21, 2007. During this visit the Polish systems of national variety listing and national variety protection were discussed. The visitors inspected our VCU, DUS and PDO experiments in three COBORU Experimental Stations, namely Przecław, Pawłowice and Zybiszów.
- A Polish delegation visited the Institute for Variety Testing and Registration in Romania, Bucharest (ISTIS) from December 12 to 14, 2007. The mutual cooperation between ISTIS and COBORU in the framework of DUS examinations as well as the organization of variety assessment in both countries were the main purposes of this visit.
- On June 4, 2008, three experts from the Bundessortenamt, Germany inspected DUS tests of Oilseed Rape, Brown Mustard, Fodder Radish, Linseed, Field Pea and Lupin varieties in the COBORU Experimental Station, Słupia Wielka. Guidelines for DUS testing of the mentioned species used in Poland and in Germany were discussed by the experts and examiners from both authorities.
- On July 2, 2008, two experts from Hungary (Central Agricultural Office, Budapest) visited DUS tests of Triticale, Wheat and Rye varieties in COBORU Experimental Station in Słupia Wielka. The possibilities of further DUS cooperation, as well as guidelines for variety testing of the above species, were discussed.
- From July 8 to 11, 2008, the COBORU Director General, together with two specialists, visited the State Commission of the Russian Federation for Selection Achievements Test and Protection, Moscow. This visit was aimed at familiarization with the organization of variety assessment as well as with the systems of variety listing and protection in both countries.
- From July 20 to 23, 2008, two Polish experts visited the Central Agricultural Office, Budapest, inspecting the DUS tests in Tordas (mainly Cereals, Oil and Fibre Crops).

Publications

- COBORU issues, every two months, the Polish Gazette for Plant Breeders' Rights and National List (Diariusz), which contains detailed information referring to PBR protection and national listing systems.

- The list of varieties protected by national Plant Breeders' Rights (including provisional PBR's), valid as on June 30, 2008, was published in the third number of the Polish Gazette for Plant Breeders' Rights and National List /No 3(86)2008/.
- In addition, the Research Centre for Cultivar Testing maintains and updates every two weeks a Homepage *www.coboru.pl*, that contains official information on PVP matters in Poland.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

The Polish National List of Agricultural Plant Varieties and the Polish National List of Vegetable Plant Varieties, as well as the Polish National List of Fruit Plant Varieties, were issued in April and May 2008. Updated lists are also available on *www.coboru.pl*.

[Annex XIV follows]

ANNEX XIV

REPUBLIC OF MOLDOVA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1. Amendments of the law and the implementing regulations

In order to fulfill the commitment of the Republic of Moldova under the Partnership and Cooperation Agreement between the Republic of Moldova (RM) and the European Union (EU), the process of harmonization of the national system in the field of plant varieties protection according to the European legislation provisions is under review.

According to the RM – EU Action Plan:

- A new Law on the Protection of Plant Varieties has been elaborated in compliance with the UPOV Convention and the European Directives and Regulations in the field; the Law was adopted by the Parliament on February 29, 2008 and entered into force on September 6, 2008;
- Effective capacity building of the national authorities responsible for the administration of the plant varieties system was foreseen for the period from 2007 to 2008;
- The Governmental Decision with regards to the fees for services in the field of Plant Varieties Protection was amended by Governmental Decision No. 878 of July 18, 2008.

Problems encountered: restrained financial resources for extending the list of protected plant variety species and purchasing specialized equipment for DUS examination.

1.2. Extension of protection to further genera and species

According to the provisions of the Law No.39 of 29.02.2008 on the Protection of Plant Varieties, protection is being extended to varieties of all botanical genera and species, including hybrids between genera and species.

1.3. Case law

There is no precedent with regard to the protection of breeders' rights.

2. Cooperation in examination

There are no bilateral agreements of cooperation in the examination of plant varieties.

3. Situation in the administrative field

No changes.

- Changes in the Procedural and Protection System

No changes.

- Statistics

In the period from September 1, 2007, to September 1, 2008, the State Agency on Intellectual Property of the Republic of Moldova received 32 national applications and 4 foreign applications and granted 14 patents for plant varieties. At present, there are 34 patents for plant varieties in force.

4. Situation in the technical field

No changes.

5. Activities for the promotion of plant varieties protection

Meetings, seminars

- In the period under review, for rendering consultations to the public in the process of elaboration of the Draft Law on the protection of plant varieties, the AGEPI continued to organize seminars and workshops for representatives in industrial property, interested persons, including scientists and breeders.
- Under the TACIS Project, the AGEPI successfully organized some specific meetings with the participation of the EU Short Term Local Expert and Moldovan officials from the Ministry of Agriculture in order to familiarize the authorities on the best practices of the EU countries related to the protection of the new plant varieties.

Publications

- The AGEPI maintains the web site: *www.agepi.md*, including the national legislation in the field of plant varieties protection, the procedure forms, the list of fees, other useful information for applicants and breeders, available in Romanian, Russian and English languages.

[Annex XV follows]

ANNEX XV

CZECH REPUBLIC

I. PLANT VARIETY PROTECTION

Situation in the legislative field

Act No. 184/2008 Coll., amending Act No. 408/2000 Coll., on the Protection of Plant Variety Rights and the Amendment to Act No. 92/1996 Coll., on Plant Varieties, Seed and Planting Material of Cultivated Plants, as subsequently amended (the Act on the Protection of Plant Variety Rights), in the wording of amendments entered into effect on July 1, 2008.

As regards the substance, the most important amendment is the improvement of the current state of judicial enforcement of claims involving variety rights inserted into affected acts of jurisdiction according to subject matter of the courts, which would deal with protection of plant variety rights in the Czech Republic. The provisions regarding possibilities to apply for Community plant variety rights via the Central Institute for Supervising and Testing in Agriculture are set forth in greater detail.

Case law: Decree No. 320/2007 Coll. amending Decree No. 449/2006 Coll., setting out methods of testing of distinctness, uniformity, stability and value for cultivation and use trials of varieties entered into effect on the 6 December 2007.

Situation in the administrative field

Within the period from January 1 to September 4, 2008, 48 applications for protection were received and 43 titles were issued. At the latter date, 674 titles were in force and 201 applications pending.

Activities for the promotion of plant variety protection

Thirteen specialists from National Plant Variety Office have successfully completed the UPOV Distance Learning Course "Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention".

[Annex XVI follows]

ANNEX XVI

SLOVENIA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

No new developments.

2. Cooperation in examination

We continue co-operation in the field of DUS examination with the Netherlands, Austria, Hungary, Czech Republic, Slovakia and Croatia.

3. Situation in the administrative field

From September 2007 until September 2008: no new applications were filed and no new titles of protection issued. The total number of titles in force is 22 (agricultural crops: 16; vegetables: 5; fruit crops: 1).

II. RELATED FIELDS OF ACTIVITIES

- New National List of Varieties, including the list of protected varieties, was published in August 2008.
- Descriptive list of winter wheat varieties was published in August 2008.
- Four new issues of Slovenian Plant Breeder's Rights and Variety Registration Gazette have been published since September 2007.

[Annex XVII follows]

ANNEX XVII

SWITZERLAND

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments to the Act and to the implementation provisions

On August 1, 2008, Switzerland deposited its instrument of ratification of the 1991 Act and on September 1, 2008, became party to that Act. Also on September 1, 2008, the amended Plant Variety Protection Act and the new Plant Variety Protection Ordinance came into force.

1.2 Case Law

To our knowledge, no court decisions have been given in the past year in connection with plant variety protection.

1.3 Extension of protection to additional genera and species

With the coming into force of the new statutory provisions, variety protection for all genera and species can be applied for as from September 1, 2008.

2. Cooperation in examination

No changes. As no trials are conducted in Switzerland, all examination is done abroad under contract or, alternatively, existing examination reports are adopted.

3. Situation in the administrative field

Ongoing adaptations in the database and on Internet.

4. Situation in the technical field

Nothing to report as no trials are conducted in Switzerland.

5. Activities for the promotion of plant variety protection

The Head of the Plant Variety Protection Office, Mrs. Manuela Brand, took part in the UPOV mission to Cambodia, Lao People's Democratic Republic, Viet Nam and Singapore in February 2008.

In June 2008, the Plant Variety Protection Office received visits from the following delegations:

- Azerbaijan;
- Kazakhstan;
- Kyrgyzstan;
- Ukraine.

[Annex XVIII follows]

ANNEX XVIII

UKRAINE

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field*1.1. Changes in legislation and application of legal provisions*

The State Service on Right Protection for Plant Varieties during the year of 2007, on execution of the Law of Ukraine “On Accession to the International Convention for the Protection of New Varieties of Plants” dated 02.08.2006 No. 60-V and of the Law of Ukraine “On Amendments to the Law of Ukraine “On Right Protection for Plant Varieties” dated 02.11.2006 No. 311-V was ensuring adoption of a set of Government’s decisions, in particular:

- decisions regarding moderation of functions and tasks, which are in the responsibility of the governmental body of official administration in the field of right protection for plant varieties, namely, the State Service on Right Protection for Plant Varieties (Enactment of the Cabinet of Ministers of Ukraine, dated 25.04.07 p. No. 628 “On Amendments to the Regulation on the State Service on Right Protection for Plant Varieties);
- decision, objecting the regulation of order of use of budgetary fund on credit repayments, provided by means of the State budget out of the attracted funds of international financial organizations on seed-growing development (Enactment of the Cabinet of Ministers of Ukraine, dated 01.03.07 p. No.343 “On Approval of the Order of State Budgetary Funds Usage in 2007, for the Purposes of Credit Repayments by the State Service on Right Protection for Plant Varieties, Provided by means of the State Budget out of the Attracted Funds of International Financial Organizations on Seed-growing Development”);
- decision regulating the procedure of decision-making by the State Service on Right Protection for Plant Varieties, concerning proprietary and personal non-proprietary relations arising in connection with acquisition, implementation and the protection of intellectual property on plant varieties (Enactment of the Cabinet of Ministers of Ukraine, dated 26.04.07 No. 673 “On Amendments to the Enactments of the Cabinet of Ministers of Ukraine dated 19.08.02 No 1183 and 29.01.2003 No. 121”);
- decision regulating relations arising in the process of commercial turnover of plant varieties and facilitating development of the national breeding and seed-growing, as well as increase of agricultural production, and providing compliance of the Constitutional norms and liberties of residents and non-residents of Ukraine to own and use intellectual property on plant varieties and form on its base national plant varieties resources, which provides warranty of the country’s food security (Enactment of the Cabinet of Ministers of Ukraine “On Amendments to the Regulation on the State Register of Plant Varieties, Suitable for Dissemination in Ukraine” dated 12.05.07 No. 714);
- the decision of Government was developed regarding the order and amount of payment for actions arising in connection with acquisition, implementation and the protection of rights for plant varieties (Enactment of the Cabinet of Ministers of Ukraine dated 19.09.2007

No.1154 “On Amendments to the Enactment of the Cabinet of Ministers of Ukraine dated 19.08.02 No 1183 “) which:

- corresponds to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991(UPOV publication No. 221 (E)), Council Regulation (EU) No. 2100/94 of 27.07.1994 on Rights for Plant Varieties in the Community (Official Journal No. L 227/1, 01.09.1994), Commission Directive (EU) of 31.05.1995 No. 1238/95 as amended by the Commission Directive of 11.02.2000 No. 329/2000 (Official Journal No. L 37/19, 12.02.2000) and of 28.03.2003 No. 82/13 (Official Journal No. L 82/13, 29.03.2003);
- regulates proprietary and personal non-proprietary rights arising in connection with acquisition, implementation and the protection of intellectual property rights for a plant variety, as well as fulfillment of engagements, undertaken within the framework of Ukraine’s accession to the World Trade Organization;
- resolves the issue of bringing the legal acts of Cabinet of Ministers of Ukraine in line with the requirements of the Article 3 of the Treaty on Trade-Related Aspects of Intellectual Property (TRIPS) by establishment of a single payment rate for residents and non-residents, who pay the fees;
- reduces the number of fees categories related to acquisition, implementation and the protection of intellectual property rights for a plant variety according to the Law of Ukraine “On Right Protection for Plant Varieties”.

The State Service on Right Protection for Plant Varieties, following the Government’s decision, ensured elimination of Interdepartmental Coordinative Council on Intellectual Property for Plant Varieties (Enactment of the Cabinet of Ministers of Ukraine “On Elimination of Some Consulting, Advisory and Other Bodies Established by the Cabinet of Ministers of Ukraine” dated 20.04.07 No. 646).

The State Service on Right Protection for Plant Varieties made the amendments to service procedures providing transparent system of conducting registration of proprietary rights of intellectual property, in particular:

- Guidelines for conducting the formal examination of documents in application for a plant variety was adopted, which, in general, are in line with Council Regulation (EU) No. 2100/94 dated 27.07.1994 on rights for plant varieties in European Community (Official Journal No. L 227/1, 01.09.1994) and with the principle of legal certainty (August, 2007).
- Guidelines for conducting the qualifying (technical) examination of plant varieties, which are in line with Council Regulation (EU) No. 2100/94 dated 27.07.1994 on rights for plant varieties in European Community (Official Journal No. L 227/1, 01.09.1994) and with the principle of legal certainty. The conduct of qualifying examination is regulated in accordance with the provisions of International Convention for the Protection of New Varieties of Plants.

The State Variety Service, on its own initiative, has also developed and ensured adoption of a set of normative acts, in particular:

- Order of the Ministry of Agrarian Policy of Ukraine dated 28.04.07 No. 300 “On Recognizing of the Miagropolicy’s Order as Such That Came out of Force” registered in the Ministry of Justice 10.05.07 No. 492/13759;
- Order of the Ministry of Agrarian Policy of Ukraine dated 28.04.07 No. 300 “On Adoption of the Rules for Compilation and Filing the Application for a Plant Variety” registered in the Ministry of Justice 30.05.07 No. 553/13820.

Two own normative acts were also adopted and registered in the Ministry of Justice, namely: orders dated 03.08.2007 No. 302 “On Amendments to the Instruction on Drawing up by the State Inspectors Materials on the administrative violations”, registered in the Ministry of Justice 17.08.07 No. 953/14220, and No.168 dated 21.05.2007 “On Recognizing of the State Variety Service’ Order as Such That Came out of Force”, registered in the Ministry of Justice 05.06.07 No. 586/13853.

1.2. Distribution of right protection for following genera and species (carried out or planned)

According to the Law of Ukraine “On Right Protection for Plant Varieties” all genera and species are protected in Ukraine. To date, the National Register of Plant Varieties, Suitable for Dissemination in Ukraine for 2007, includes 62 species.

1.3 Case Law

Ukraine has Romano-German system of law and, subsequently, there is no such element in Ukraine as the Case Law.

2. Cooperation in examination

During the reporting period it has been carried out the set of actions which promote the signing of agreements in the field of right protection for plant varieties in 2009 with France, Poland, Russia and Germany.

3. Situation in the administrative field

Essential changes have not occurred.

4. Situation in the technical field

Essential changes have not occurred.

5. Activities for the promotion of plant variety protection

During the reporting period, representatives of Ukraine took part in:

- Annual Meeting of ISTA (London, Great Britain)
- First Meeting of Project Coordinators on Evaluation of Natural and Mutagenic Genebank of the Eastern European Cereals (Madrid, Spain)
- Regional Seminar “Possibility of Transboundary Co-operation in the Assessment of Variety Value for Cultivation and Use (VCU) of Agricultural Crops” (Krakow, Poland).
- Acquaintance with the mechanism of carrying out the expertise in Poland, as well as structure and work of stations (Pzhetslav, Pavlovitsa, Zybushiv, Poland)

The following publications were issued:

- State Register of Plant Varieties Suitable for Dissemination in Ukraine in 2007 as of 01.09.2007 and 15.05.2008;
- Guidelines for conducting the formal examination of documents in applications for a plant variety as well as for conducting the qualifying (technical) examination of plant varieties.
- Current information regarding applications for a plant variety, changes in variety denomination, decisions on the applications, issuance of the Certificates of the Copyright, licenses, Certificates of Title and Proprietary Right of the Variety Owner Validity, as well as National Guidelines for Conduct of Examination for *Zea mays*, morphological characteristics, translation into Ukrainian language of the Plant Variety Descriptions, list of the variety maintainers, are published in the Bulletin.
- During 2007, 94 National Guidelines have been developed using UPOV recommendations.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

- Number of varieties authorized for sale: 3,637.
- 555 titles were issued in 2007.

[Annex XIX follows]

ANNEX XIX

SERBIA

I. PLANT VARIETY PROTECTION

Situation in the legislative field

The Draft Law on Protection of Plant Breeder's Rights was examined for conformity with the 1991 Act of the UPOV Convention on the twenty-fifth extraordinary session of the UPOV Council, held on April 11, 2008. According to the positive decision of the conformity on the draft Law issued by the Council, the draft Law will be sent to the Parliament of the Republic of Serbia for adoption.

Situation in the administrative field

According to the proposal of the new organizational structure in the Ministry of Agriculture, Forestry and Water Management in 2009, a new department responsible for variety protection, plant genetic resources and biosafety should be established.

Activities for the promotion of plant variety protection

A Seminar on plant variety protection, organized with the CPVO, CIOPORA and Naktuinbouw, was held in October 2007. The aim of the Seminar was to support the development of plant variety protection in the Republic of Serbia and to raise public awareness on importance of plant breeder's rights.

Representatives of the Ministry of Agriculture, Forestry and Water Management took part in the twenty-fifth extraordinary session of the Council, held in Geneva on April 11, 2008. On this occasion, the representatives of the Ministry and the Plant Variety Registration and Protection Department had meetings with officials of UPOV Office and with the representatives of the intergovernmental organization, regarding the draft Law which had been examined at UPOV sessions, and informed them about the situation on the protection of plant varieties in the Republic of Serbia.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

The Catalogue of Varieties (Register of Plant Varieties) is available on the web site of the Ministry of Agriculture, Forestry and Water Management of the Republic of Serbia (www.minpolj.sr.gov.yu and www.sorte.minpolj.sr.gov.yu), as is information regarding the procedures for registration of plant varieties, results of variety testing, forms and other regulations.

[End of Annex XIX and of document]